

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RUBEN RAYA-DELGADO,

Defendant.

MEMORANDUM DECISION AND
ORDER DENYING WITHOUT
PREJUDICE DEFENDANT'S
STIPULATED MOTION TO
CONTINUE TRIAL

Case No. 2:10-CR-989 TS

Counsel for Defendant moves to continue the January 11, 2011 trial because additional “time [is] needed to prepare for trial and to engage in plea negotiations on defendant’s behalf.”¹ The government has no objection.

The Court finds that Counsel has not shown why he could not, considering due diligence, be prepared for trial now set for January 11, 2011. As the Tenth Circuit has explained:

Our decisions . . . indicate that the record, which includes the oral and written statements of both the district court and the moving party, must contain an explanation of why the mere occurrence of the event identified by the party as

¹Docket No. 13.

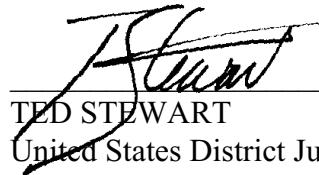
necessitating the continuance results in the need for additional time. A record consisting of only short, conclusory statements lacking in detail is insufficient. . . . Simply identifying an event, and adding the conclusory statement that the event requires more time for counsel to prepare, is not enough.²

In *United States v. Larson*,³ the Tenth Circuit has further explained what is insufficient for the Court to make the required ends-of-justice findings necessary to exclude time. As in *Larson*, in the present case there is no information on “how much time defense counsel need[s] to prepare for trial and what preparations he has already made.”⁴ Without this type of information, the Court can not “adequately determine whether denying the continuance would deprive defense counsel of the ‘reasonable time necessary for effective preparation, taking into account the exercise of due diligence.’”⁵ It is therefore

ORDERED that Defendant’s Stipulated Motion to Continue trial (Docket No. 13) is DENIED WITHOUT PREJUDICE.

DATED January 5, 2011.

BY THE COURT:



TED STEWART
United States District Judge

²*United States v. Toombs*, 574 F.3d 1262, 1271-72 (10th Cir. 2009) (footnote and citations omitted).

³ ___ F.3d ___, 2010 WL 5151635 (10th Cir. Dec. 20, 2010).

⁴*Id.* at *4.

⁵*Id.* (quoting 18 U.S.C. § 3161(h)(7)(B)(iv)) (emphasis added in *Larson*).